

State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
July 7, 2015
Minutes Index

I.	Call to Order	1
	A. Amendments to Agenda.....	1
	B. Scheduled Agenda Items	1
	C. Election of Officers	2
II.	Complaints	
	1. CR15-36.....	2
	2. CR15-37.....	2
	3. CR15-46.....	2-3
	4. CR15-5.....	3
	5. CR13-199.....	3
	6. CR15-26.....	3
	7. CR15-27.....	3-4
	8. CR15-31.....	4
	9. CR15-32.....	4
	10. CR15-43.....	4
	11. CR15-35.....	4
	12. CR15-42.....	5
	13. CR15-67.....	5
	14. CR15-68.....	5
	15. CR15-24.....	5
	16. Intentionally left blank	
III.	Assessment and Direction	
	17. AD15-70	6
	18. AD15-59	6
	19. AD15-81	6
	20. AD15-72	6
	21. AD15-71	6
	22. AD15-93	6
	23. Intentionally left blank	
	24. Pending Adjudicatory Hearings and Informal Conferences report.....	6
	25. Consumer Outreach Specialist Feedback.....	6
	26. Physician Feedback (none)	
IV.	Informal Conference (none)	
V.	Minutes of June 9, 2015.....	7
VI.	Board Orders & Consent Agreement Monitoring and Approval	
	A. Board Orders (none)	
	B. Consent Agreement Monitoring and Approval	
	1. Christine M. Mellon, M.D.	7
	2. Fred D. Risser, M.D.	7

3. Leslie C. Harding, M.D.	7
VII. Adjudicatory Hearing	
CR15-12 Lowell I. Gerber, M.D.	7
VIII. Remarks of Chairman	
A. Committee Assignments	7
IX. Remarks of Executive Director	
A. Review of complaints in public session.....	7-8
B. Iowa telemedicine rules	8
C. Recusal policy	8
X. Assistant Executive Director's Monthly Report	8
A. Legislative update	8
B. Acupuncture	8
XI. Medical Director's Report (none)	
XII. Remarks of Assistant Attorney General (none)	
XIII. Secretary's Report	
A. Licenses for Ratification	
1. M.D. Licenses for Ratification.....	8-9
2. P.A. Licenses for Ratification	10
B. Applications for Individual Consideration	
1. Claus Hamann, M.D.	10
2. Paul A. Dowsett, M.D.	10
3. Intentionally left blank	
C. Applications for Reinstatement	
1. Applications for Reinstatement for Ratification	10-11
2. Applications for Reinstatement for Individual Consideration (none)	
D. Withdrawals	
1. Withdraw License Application (none)	
2. Withdraw License from Registration.....	11
3. Withdraw License from Registration - Individual Consideration (none)	
E. Licenses to lapse by operation of law	11-12
F. Licensees requesting to convert to active status	
1. Christine M. Mellon, M.D.	12
G. Renewal applications for review (none)	
H. Physician Assistant Schedule II Authority Requests for Ratification	
1. Applications to Renew Schedule II Authority	12
2. Applications for New Schedule II Authority	13
XIV. Rulemaking	
A. Chapter 1 Rules	13
B. Chapter 2 Rules	13
XV. Standing Committee Reports	
A. Licensure and CME Committee	
1. Licensing Exam and Study Guide.....	13
XVI. Board Correspondence (none)	
XVII. FSMB Material (none)	
XVIII. FYI	14
XIX. Other Business	

1.	1:00 p.m. Medical Professionals Health Program Annual Report.....	14
2.	Discussion regarding the Board’s newsletter.....	14
XX.	Adjournment	14

**State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
Minutes of July 7, 2015**

Board Members Present

Maroulla S. Gleaton, M.D., Board Chairman
M. Louisa Barnhart, M.D.
Cheryl Clukey, M.Ed.
David Nyberg, Ph.D.
Christopher R. Ross, P.A.-C
Peter J. Sacchetti, M.D.

Board Staff Present

Dennis E. Smith, Executive Director
Timothy E. Terranova, Assistant Executive Director
Julie A. Best, Consumer Outreach Specialist
Kathryn Levesque, Investigator
Maureen S. Lathrop, Administrative Assistant

Attorney General's Office Staff Present

Michael Miller, Assistant Attorney General
Detective James Gioia

Dr. Dumont and Dr. Jones were absent.

The Board met in public session, with the exception of the times listed below, which were held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (1 M.R.S. §405, 405(4), 405(6)(E); 10 M.R.S. §8003-B; 22 M.R.S. §1711-C; and 24 M.R.S. §2510). The Board moved, seconded, and voted the following executive session times. During the public session of the meeting, actions were taken on all matters discussed during executive session.

EXECUTIVE SESSIONS

9:25 a.m. – 12:15 p.m.

PURPOSE

Complaint/Assessment and Direction

RECESSES

11:20 a.m. – 11:30 a.m.

Break

12:20 p.m. – 1:00 p.m.

Lunch

I. Call to Order

Dr. Gleaton called the meeting to order at 9:09 a.m.

A. Amendments to Agenda

1. Discussion regarding the Board's newsletter under other business

B. Scheduled Agenda Items

1. 9:00 a.m. Adjudicatory Hearing CR15-12 Lowell I. Gerber, M.D.
2. 1:00 p.m. Medical Professionals Health Program Annual Report

C. Election of Officers

Ms. Clukey nominated Dr. Gleaton for Chairman. Dr. Sacchetti seconded the nomination. The Board voted unanimously to elect Dr. Gleaton as Chairman.

Dr. Sacchetti nominated Dr. Jones for Secretary. The Board voted 5-0-1-0 to elect Dr. Jones as Secretary, with Dr. Barnhart abstaining. [The nomination was not seconded. On advice of Board counsel, this issue will be brought back to the Board at its next meeting for a new vote].

Dr. Barnhart nominated Dr. Dumont for Secretary. The Board voted 1-0-5-0 on the motion, with Dr. Gleaton, Ms. Clukey, Dr. Nyberg, Mr. Ross and Dr. Sacchetti abstaining. The motion failed to pass. [The nomination was not seconded. On advice of Board counsel, this issue will be brought back to the Board at its next meeting for a new vote].

II. Complaints

1. CR15-36

Mr. Ross moved to investigate further. Dr. Barnhart seconded the motion, which passed unanimously. AAG Miller was recused from this matter and left the room.

2. CR15-37

Dr. Sacchetti moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed unanimously.

MOTION: A patient complains about her adverse surgical outcome and the surgeon's poor communication with her family when her condition was critical. The medical record shows that the surgeon carefully and methodically studied the patient's abnormal stomach anatomy and exhausted medical treatment before offering surgery. The patient and her husband were counseled by the surgeon on many occasions, and informed consent was obtained before proceeding to surgery. Unfortunately, the patient experienced an acute embolic event during surgery causing bowel ischemia and necrosis requiring extensive resection and transfer to a higher level hospital. Such a rare complication could not be anticipated during the informed consent process, and the surgeon did her best to salvage the patient's bowel.

3. CR15-46

Dr. Sacchetti moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed unanimously.

MOTION: The complainant raises concern that a urine toxicology test was obtained at the time of his sleep study without his informed consent or consideration of cost. Furthermore, the patient later encountered difficulty obtaining his toxicology results. The test was added as a matter of departmental protocol by the physician and was not part of

the original order. The physician received a request from a technologist to order the toxicology screen and reflexively did so. The physician explains the steps that the department and institution have taken to ensure transparency on this matter and expedite report of test results.

4. CR15-5

Dr. Sacchetti moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed unanimously.

MOTION: The mother of a patient alleges that her son's condition was misdiagnosed by a pediatric hospitalist, and that send-out lab results were not readily forthcoming after he had been discharged home. There were reliable data to support a working diagnosis of cellulitis, which included clinical improvement in response to empiric treatment. Appropriate follow-up care by the patient's family physician was arranged in a timely manner.

5. CR13-199 Harendrababu N. Patel, M.D.

Mr. Ross moved to dismiss the complaint with a letter of guidance. Dr. Sacchetti seconded the motion, which passed unanimously.

MOTION: The basis of this complaint was the physician's prescribing of controlled substances to a patient with an addiction problem. The Board monitored the physician's prescribing of controlled substances for eighteen months. During this time, the physician completed continuing medical education and improved medical documentation.

The letter of guidance will encourage the physician to recognize: 1) the importance of diligent oversight of any patient managed with controlled substances using all the elements of universal precautions outlined in Board Rule Chapter 21 and FSMB publications on responsible opioid prescribing; and 2) the need to consistently document these elements in the patient's medical record.

6. CR15-26

Dr. Barnhart moved to investigate further. Ms. Clukey seconded the motion, which passed 5-0-0-1. Dr. Sacchetti was recused from this matter and left the room.

7. CR15-27

Dr. Barnhart moved to dismiss the complaint. Ms. Clukey seconded the motion, which passed 5-0-0-1. Mr. Ross was recused from this matter and left the room.

MOTION: A patient alleges a physician touched her inappropriately during several office visits. The patient subsequently left the practice. The patient did not provide authorization for the Board to obtain a copy of her medical record. The physician notes that there were areas of disagreement regarding treatment. It is impossible for the Board

to determine what occurred when there are differing viewpoints and the medical record cannot be used to appropriately view the context of the complaint.

8. CR15-31

Ms. Clukey moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed unanimously.

MOTION: The patient alleges the physician did not follow infectious disease protocol, falsified his medical record, did not send test results, and cancelled a follow-up appointment. The physician responded that the test in question was ordered and came back negative, which was properly noted in the record, the results were mailed to the patient per office procedure, and the follow-up appointment was not cancelled, but was covered by another provider in the practice because the physician was not available.

9. CR15-32

Ms. Clukey moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed unanimously.

MOTION: The patient alleges the physician misdiagnosed him and entered false information in his medical record. The physician responded that the patient's fears about infection should have been allayed by the negative test results, which were properly entered in the record, yet the patient persists in believing he has an infection for which there is no evidence.

10. CR15-43

Ms. Clukey moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed unanimously.

MOTION: The complainant alleges the physician who treated his daughter from birth to age five concealed from him a serious congenital disease he presumes to exist. The physician, in fact, saw the daughter only once for a routine two-year exam, which was normal in all aspects. The child was seen by other providers in the practice during the time in question, but the subject disease was never suspected, investigated, or even discussed. There is no evidence to suggest the disease was present then or now.

11. CR15-35

Mr. Ross moved to dismiss the complaint. Dr. Gleaton seconded the motion, which passed unanimously.

MOTION: A patient complained about a neurosurgeon who evaluated him for an independent medical exam after he sustained an injury while working at his job. Review of the record substantiates reasonable evaluation and report by the physician.

12. CR15-42

Dr. Gleaton moved to dismiss the complaint. Dr. Sacchetti seconded the motion, which passed unanimously.

MOTION: A patient complains about the postoperative care he received from the ophthalmologist who performed cataract surgery on him. The patient was concerned about the diagnostic and therapeutic competence of the physician, as well as the physician's failure to obtain consultation and expedite a referral for him. Careful review of the medical record concerning his ophthalmologic course reveals competent care and timely evaluation and treatment of clinically variable cystoid macular edema post cataract surgery in a patient compromised by previous retinal pathology. Consultation and timeliness of the condition were within the standard of care. Unfortunately, the patient's final macular condition of his retina and distortion of vision is not remediable, which is difficult to live and function with.

13. CR15-67

Dr. Nyberg moved to order an Adjudicatory Hearing and authorize AAG Miller to negotiate a Consent Agreement. Dr. Sacchetti seconded the motion, which passed unanimously.

14. CR15-68

Dr. Nyberg moved to investigate further and require the physician to undergo a §3286 evaluation. Dr. Sacchetti seconded the motion, which passed unanimously.

15. CR15-24

Dr. Sacchetti moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed unanimously.

MOTION: A patient complains of emotional duress following Mohs surgery when she learned that her surgical tray had been accidentally switched with that of another patient mid-procedure. A sterile scalpel blade on an unsterile handle made contact with the patient before corrective action could be taken. The dermatologist attempted to reassure the patient of her low risk for exposure and made immediate arrangements for baseline bloodwork and follow-up care. The patient's anxiety escalated when she was escorted to the lab by the medical assistant where she was presumed to be the source patient, and let go without customary counseling for someone potentially exposed to blood borne pathogens. The relationship between the complainant and the physician eroded from this point forward. The dermatologist reacted sincerely to this incident by taking a proactive role to improve office protocols for dealing with unusual or adverse events.

16. Intentionally left blank

III. Assessment and Direction

17. AD15-70

Dr. Sacchetti moved to issue a complaint (CR15-95). Dr. Nyberg seconded the motion, which passed unanimously.

18. AD15-59

Dr. Barnhart moved to issue a complaint (CR15-97). Dr. Nyberg seconded the motion, which passed unanimously.

19. AD15-81

Ms. Clukey moved to issue a complaint (CR15-96). Dr. Sacchetti seconded the motion, which passed unanimously.

20. AD15-72

Ms. Clukey moved to issue a complaint (CR15-98) and require the physician to undergo a §3286 evaluation. Mr. Ross seconded the motion, which passed unanimously.

21. AD15-71

Dr. Nyberg moved to file the issue. Dr. Sacchetti seconded the motion, which passed unanimously.

22. AD15-93

Dr. Nyberg moved to: 1) issue a complaint (CR15-99); 2) require the physician to undergo a §3286 evaluation; 3) summarily suspend the physician's medical license; and 4) authorize AAG Miller to negotiate a Consent Agreement to continue the license suspension until the evaluation is conducted and an adjudicatory hearing is held or seek a court injunction to prevent the physician from being able to practice medicine until an evaluation is conducted and an adjudicatory hearing is held.

23. Intentionally left blank

24. Pending Adjudicatory Hearings and Informal Conferences report

The material was presented for informational purposes. No Board action was required.

25. Consumer Outreach Specialist Feedback

The Consumer Outreach Specialist provided feedback from a complainant. No Board action was required.

26. Physician Feedback (none)

IV. Informal Conference (none)

V. Minutes for Approval

Dr. Nyberg moved to approve the minutes of the June 9, 2015 meeting. Dr. Sacchetti seconded the motion, which passed 4-0-2-0 with Dr. Gleaton and Dr. Barnhart abstaining.

VI. Board Orders & Consent Agreement Monitoring and Approval

A. Board Orders (none)

B. Consent Agreement Monitoring and Approval

1. Christine M. Mellon, M.D.

Dr. Barnhart moved to table Dr. Mellon's request to return to the active practice of medicine pending further information. Mr. Ross seconded the motion, which passed unanimously.

2. Fred D. Risser, M.D.

Dr. Sacchetti moved to approve the proposed practice monitor. Dr. Barnhart seconded the motion, which passed unanimously.

3. Leslie C. Harding, M.D. [Appendix A]

Dr. Nyberg moved to approve the signed Consent Agreement. Dr. Sacchetti seconded the motion, which passed unanimously.

VII. Adjudicatory Hearing – CR15-12 Lowell I. Gerber, M.D. [Appendix B]

Dr. Nyberg moved to accept the signed Consent Agreement for Discipline in lieu of holding the Adjudicatory Hearing. Ms. Clukey seconded the motion, which passed unanimously.

VIII. Remarks of Chairman

A. Committee Assignments

The Board reviewed current committee assignments. Dr. Sacchetti volunteered to serve on the Public Information Committee.

IX. Remarks of Executive Director

A. Review of complaints in public session

The Board discussed reviewing complaints during the public session of the meeting rather than during the executive session. Following discussion, Ms. Clukey moved to

table the matter until the next Board meeting. Dr. Nyberg seconded the motion, which passed unanimously.

B. Iowa Telemedicine Rules

The Board reviewed rules recently established by the Iowa Board of Medicine regarding the practice of telemedicine. The Board instructed staff to draft similar rules for their review.

C. Recusal Policy

Dr. Nyberg moved to approve a new policy, Board Member Recusal, as amended. Mr. Ross seconded the motion, which passed unanimously.

X. Assistant Executive Director's Monthly Report

Mr. Terranova provided an overview of planned enhancements to the Board's website.

A. Legislative Update

Mr. Terranova updated the Board on the current status of legislation.

B. Acupuncture

The Board reviewed a request from a physician who is considering adding acupuncture to her practice. The physician inquired about additional licensure requirements. Staff requested the Board's interpretation of the statutes regarding licensure requirements for physicians and acupuncturists. After review, the Board determined that acupuncture falls within the scope of practice for physicians and no additional licensure is required.

XI. Medical Director's Report (none)

XII. Remarks of Assistant Attorney General (none)

XIII. Secretary's Report

A. Licenses for Ratification

1. M.D. Licenses for Ratification

Dr. Nyberg moved to ratify the Board Secretary's approval of the following physician license applications. Mr. Ross seconded the motion, which passed unanimously.

The following license applications have been approved by Board Secretary David D. Jones, M.D. without reservation.

NAME
Ahmad, Ghasan

SPECIALTY
Neurology

LOCATION
Lewiston

Anderson, Laura A.	Internal Medicine	Portland
Brar, Harsharon K.	General Practice	Not Listed
Balay, Kimberly S.	Pediatrics	Lewiston
Bergeron-Killough, Katrin S.	Family Medicine	Portland
Berkowitz, Cara	Family Medicine	Waterville
Bevan III, Charles A.	Emergency Medicine	Lewiston
Camenga, David L.	Neurology	Waterville
Camy, Rodolphe	Urgent Care	Portland
Chawla, Sonia	Internal Medicine	Portland
Dekker, Kimberly L.	Family Medicine	Auburn
Der Simonian, Kohar	Family Medicine	Portland
Dolinsek Razsa, Benjamina	Internal Medicine	Portland
Ferguson, Michael A.	Pediatrics	Portland
Fox, Nicholas R.	Internal Medicine	Portland
Fulton, Robert	Internal Medicine	Falmouth
Gonzalez, Karyll D. J.	Internal Medicine	Portland
Gordon, Scott M.	Psychiatry	Telemedicine
Gormley, Rachel H.	Dermatology	Portland
Gunyan, Holly N.	Emergency Medicine	Biddeford
Hutchinson, Rebecca N.	Internal Medicine	Augusta
Kelly, Matthew P.	Undersea & Hyperbaric Medicine	Bar Harbor
Kim, Regina Y.	Family Medicine	Portland
Kircheva, Miglena M.	Pediatrics	Not Listed
Kitzis, Vanessa	Internal Medicine	Lewiston
Lau, Wendy	Emergency Medicine	Bangor
Levin, Rolina	Diagnostic Radiology	Not Listed
London, Cathleen G.	Family Medicine	Calais
Louden, Mark S.	Emergency Medicine	Bridgton
Manu-Boateng, Adwoa	Pediatrics	Houlton
Meagher, Andrew S.	Emergency Medicine	Bangor
Mishkind, Steven H.	Emergency Medicine	Blue Hill
Norman, Anastasia R.	Family Medicine	Saco
Pappy, Adlai L.	Anesthesiology	Not Listed
Peelle, Kenneth R.	Diagnostic Radiology	Not Listed
Pettit, Catherine C.	Emergency Medicine	Lincoln
Rappold, Joseph E.	General Surgery	Portland
Sha, Sean E.	Internal Medicine	Lewiston
Taj, Majid M.	Internal Medicine	Caribou
Thakker. Pankaj	Oral & Maxillofacial Surgery	Lewiston
Trettin, James R.	Family Medicine	Augusta
Williams, Lindsay	A&C Pathology	Bangor
Yoong, Yinlee	Medical Oncology & Hematology	Rockport
Younger, Robert E., III.	Allergy & Immunology	Bangor

2. P.A. Licenses for Ratification

Mr. Ross moved to ratify the Board Secretary's approval of the following physician assistant license applications. Ms. Clukey seconded the motion, which passed unanimously.

The following physician assistant license applications have been approved by Board Secretary David D. Jones, M.D. without reservation.

<u>NAME</u>	<u>LICENSE</u>	<u>PSP</u>	<u>LOCATION</u>
Benter, Morgan	Active	Lever, Thomas	Bangor
Blaisdell, Lauren	Active	Dollard, Peter	Biddeford
Borges, Erin	Active	Burke, David	Bangor
Borghese, Andrew	Active	Steele, Edward	Islesboro
Buxton, Amy	Active	Buchanan, Scott	Portland
Cote, Ashley	Active	Hulefeld, Robert	York
Daniels, Eric	Active	Thaller, John	Augusta
Hines, Nathan	Active	Glass, Linda	Lewiston
Lickteig, Erik	Active	Perrone, Anthony	Augusta
Podoloski, Stephanie	Active	Dionne, Andrew	Augusta
Sanchez, Monica	Active	Lortscher, David	Telemedicine
Thornburn, Charleen	Active	Hulefeld, Robert	York
Waldron, Shannyn	Inactive	none	none

B. Applications for Individual Consideration

1. Claus Hamann, M.D.

Mr. Ross moved to table the application pending further information. Dr. Sacchetti seconded the motion, which passed unanimously.

2. Paul A. Dowsett, M.D.

Mr. Ross moved to table the application pending further information. Dr. Barnhart seconded the motion, which passed unanimously.

C. Applications for Reinstatement

1. Applications for Reinstatement for Ratification

Dr. Barnhart moved to ratify the Board Secretary's approval of the following license reinstatement applications. Dr. Nyberg seconded the motion, which passed unanimously.

The following license reinstatement application has been approved by Board Secretary David D. Jones, M.D. without reservation.

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Mitchell, Rosalind	Emergency Medicine	Lewiston
Oberg-Higgins, Barbara P.	Nephrology	Lewiston

2. Applications for Reinstatement for Individual Consideration (none)

D. Withdrawals

1. Withdraw License Application (none)

2. Withdraw License from Registration

Dr. Sacchetti moved to approve the following licensees' requests to withdraw from registration. Dr. Nyberg seconded the motion, which passed unanimously.

<u>NAME</u>	<u>LICENSE NUMBER</u>
Clark, Davis	MD15921
Furman, Robert	MD6240
Gravdahl, Daniel J.	MD19797
Hotchkiss, Laura Anne	MD12961
Levin, Steven	MD18221
Rajanna, Preethi	MD19815
Skripenova, Silvia	MD18521
Visintine, Aarolyn	MD13588
Williams, William T.	MD17474

3. Withdraw License from Registration – Individual Consideration (none)

E. Licenses to Lapse by Operation of Law

The following licenses lapsed by operation of law effective June 23, 2015.

<u>NAME</u>	<u>LICENSE NUMBER</u>
Angles, Erik M.	MD19472
Ayala-Rodriguez, Cesar E.	MD18670
Bertram, Juergen H.	MD17434
DeForest, Vaughn C.	MD17262
Elazegui, Rozel De Rosas	MD19521
Gregorie, William D.	MD18403
Kok, Mitchell P.	MD18541
Lockhart, Paula J.	MD18590
Metzger, Michael E.	MD15949
Mugnaini, Emiliano N.	MD18365
Nosanov, Michael S.	MD19027
Omar, Khawaja O.	MD19853
Pillai, Ansi K.	MD19148

Raslavicius, Polius A.	MD11850
Schaer, Ann R.	PA56
Shaikh, Mohammed A.	MD16534
Sorond, Farzaneh A.	MD17906

F. Licensees Requesting to Convert to Active Status**1. Christine M. Mellon, M.D.**

Dr. Barnhart moved to table Dr. Mellon's request to convert her license to active status pending further information. Mr. Ross seconded the motion, which passed unanimously.

G. Renewal Applications for Review (none)**H. Physician Assistant Schedule II Authority Requests for Ratification****1. Applications to Renew Schedule II Authority**

Dr. Sacchetti moved to ratify the Board Secretary's approval of the following renewal requests for Schedule II prescribing authority. Mr. Ross seconded the motion, which passed unanimously.

The following renewal requests for Schedule II prescribing authority have been approved by Board Secretary David D. Jones, M.D. without reservation.

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
Carbona, Veronica	Filliter, Nancy	Oakland
Chretien, Joel	Hoffman, Eric	Portland
Corrao, Cheryl	Frederick, Shirley	South Berwick
Delcasino, Stephen, Jr.	Kerr, Lindsey	Bangor
Dorsky, Daniel	Glass, Linda	Lewiston
Keller, Norman	White, Julie	Rockport
Latimer, Zachary	Blank, Seth	Portland
Long, Kathy	Torres, Jonathan	Auburn
Martin, Anthony	Yindra, John	Monmouth
Motley, Susan	Dionne, Andrew	Augusta
Murphy, Gordon	Krevans, Julius, Jr.	Bar Harbor
Noreika, Frank, Jr.	Faller, Alicia	Lewiston
Norton, Betsy	Marshall, Gregory	Farmington
Parenteau, Stephen	Bloch, Rebecca	Portland
Plumer, Paul	Dionne, Andrew	Augusta
Roy, Michelle	Southall, John	Portland
Sherwood, Leonard, III.	Buchanan, Scott	Portland
Taisey, Amy	Shubert, Sarah	Falmouth
Walton, Scott	Michaud, Jean Pierre	Caribou

2. Applications for New Schedule II Authority

Mr. Ross moved to ratify the Board Secretary's approval of the following new requests for Schedule II prescribing authority. Ms. Clukey seconded the motion, which passed unanimously.

The following new requests for Schedule II prescribing authority have been approved by Board Secretary David D. Jones, M.D. without reservation.

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
Attia, Valerie	Lupinetti, Flavian	Bangor
Borges, Erin	Burke, David	Bangor
Buchanan, Phyllis	Dickens, John M.	Waldoboro
Buxton, Amy	Buchanan, Scott	Portland
Crawford, Kara	Diehl, Jennifer	Augusta
Downing, Sherri	Curtis, Craig	Bangor
Knudsen, Emily	Hulefeld, Robert	York
LaBrecque, Abby	Bloch, Rebecca	Portland
LaBrecque, Vince	Haas, Nelson	Augusta
Reinoso, Jane	Krevans, Julius, Jr.	Bar Harbor
Thorburn, Charleen	Hulefeld, Robert	York
Wardwell, Rachel	Nesin, Noah	Bangor
Webber, Sarah	Thaller, John	Augusta

XIV. Rulemaking

1. Chapter 1 Rules

The Board discussed its current Chapter 1 Rule regarding physicians and requested that staff prepare draft amendments for review.

2. Chapter 2 Rules

The Executive Director provided an update on the status of joint rulemaking with the Board of Osteopathic Licensure.

XV. Standing Committee Reports

A. Licensure and CME Committee

1. Licensing Exam and Study Guide

The Board reviewed proposed updates to the jurisprudence exam and study guide. Dr. Nyberg moved to approve the jurisprudence exam and study guide. Mr. Ross seconded the motion, which passed unanimously.

XVI. Board Correspondence (none)

XVII. FSMB Material (none)

XVIII. FYI

This material was presented for informational purposes. No Board action was required.

XIX. Other Business

1. 1:00 p.m. Medical Professionals Health Program Annual Report

Representatives from the Maine Medical Association's Medical Professional Health Program presented their 2014 annual statistical report to the Board.

2. Discussion regarding the Board's newsletter

The Board discussed the use of an electronic newsletter either in addition to or instead of a printed copy. The Board will discuss this matter further at the September meeting.

XX. Adjournment 3:10 p.m.

Ms. Clukey moved to adjourn the meeting at 3:10 p.m. Mr. Ross seconded the motion, which passed unanimously.

Respectfully submitted,

Maureen S. Lathrop
Administrative Assistant

emboli due to obesity, with a contributory cause of death being acute intoxication due to multiple prescribed medications, including tramadol, chlorpromazine, promethazine, and aripiprazole.

4. On June 26, 2014, following review of the OCME report, the patient records, and Prescription Monitoring Program records, the Board initiated a complaint against Dr. Harding's Maine medical license. The Board docketed it as Complaint No. CR14-83 and sent it to Dr. Harding for a response.

5. On July 30, 2014, the Board received Dr. Harding's response to the complaint. In his response, described the complicated medical treatment history of the patient with diagnoses including PTSD, depression, bipolar disorder, COPD, obesity, and chronic pain. In addition, Dr. Harding acknowledged that he had prescribed the controlled substance Lyrica for chronic pain in violation of his consent agreement with the Board.

6. At its September 9, 2014 meeting, the Board considered the information gathered to date regarding Complaint No. CR 14-83, and voted to seek an independent outside case review of the medical care provided to the patient by Dr. Harding.

7. On November 7, 2014, the Board received the independent outside case review, which concluded that Dr. Harding's care of the patient did not meet the standard of care in the following areas: a) the patient's drug regimen included combinations of medications that can cause QT prolongation putting the patient at risk of a potentially fatal cardiac arrhythmia, and there was no indication in the patient chart of electrocardiographic surveillance for this when periodic monitoring of the patients ECG was indicated; b) Tramadol was prescribed at maximum dose, and the combination with also prescribed chlorpromazine should have been avoided, especially with the concurrent use of promethazine due to seizure risk; c) Dr. Harding used two phenothiazines in combination without explanation in the chart; d) the patient's chart reflected

symptoms of hypertension, but the documentation did not demonstrate that Dr. Harding addressed this issue; and e) the patient's chart indicated a prior metformin prescription, suggesting a diagnosis of diabetes at some point, yet she was later treated with atypical antipsychotics which could aggravate or precipitate diabetes, and the chart failed to indicate any monitoring for this condition.

8. On April 14, 2015, the Board held an informal conference with Dr. Harding regarding Complaint No. CR14-83 to discuss the following issues: a) his medical management of the patient; b) his prescribing of controlled substances to the patient; c) his inconsistent use of universal precautions and apparent lack of prescribing or treatment changes following unexpected results; d) the conclusions of the independent outside reviewer regarding the treatment provided; and e) his general prescribing practices. Just prior to the informal conference, Dr. Harding presented the Board with a letter that announced that he had retired in February 2015, and that he had closed his practice. At the conclusion of the informal conference, in light of the representations made by Dr. Harding regarding his retirement and that he will not be practicing independently again, the Board voted to offer Dr. Harding this Consent Agreement in order to resolve Complaint No. CR14-83.

9. Absent Dr. Harding's acceptance of this Consent Agreement by signing and dating it before a notary and mailing it to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before May 29, 2015, the Board will take such further action that it deems necessary in accordance with applicable law.

COVENANTS

In lieu of further proceedings regarding Complaint No. CR14-83, the parties agree to the following:

10. Dr. Harding admits to the facts stated above, and that such conduct constitutes grounds for the Board to impose discipline against him pursuant to: a) 32 M.R.S. § 3282-A(2)(E) (engaging in behavior that evidences a lack of ability or fitness to discharge the duty owed by the licensee to a patient or that evidences a lack of knowledge or inability to apply principles or skills to carry out the licensed practice); b) 32 M.R.S. § 3282-A(2)(F) (for engaging in unprofessional conduct by violating a standard of professional behavior); c) 32 M.R.S. § 3282-A(2)(H) (for violation of a Board Rules contained in Chapter 21, regarding use of controlled substances for chronic pain); and d) 32 M.R.S. § 3282-A(2)(P) (for noncompliance with a Board consent agreement).

11. As discipline for the conduct stated above, Dr. Harding agrees that:

- a. **Controlled Substances**. He will never prescribe controlled substances under any circumstances unless authorized by the Board, in its sole discretion. Dr. Harding agrees that any Board determination made pursuant to this subparagraph shall not be subject to appeal.
- b. **Practice Limitation**. Should Dr. Harding resume the practice of medicine, he shall not practice in an independent setting. Dr. Harding's practice of medicine shall be limited to practice in a skilled nursing facility, nursing facility, or multi-level long-term care facility, or in connection with a hospice program that maintains a current certification by Medicare. Prior to initiating any medical practice with an acceptable entity as provided herein, Dr. Harding

shall submit to the Board for its approval, a written plan describing how his prescribing will be monitored by another physician or in association with a consulting pharmacist. The approval of the plan referenced in this subparagraph shall be at the sole discretion of the Board and Dr. Harding agrees that the Board's determination on this issue shall not be appealable.

- c. Costs. Dr. Harding shall be responsible for all costs associated with his compliance with the terms and conditions of this Consent Agreement. In addition, Dr. Harding shall reimburse the Board Nine Hundred Seventy-Two Dollars and Ten Cents (\$972.10) as the actual costs for the investigation of Complaint No. CR14-83. Dr. Harding shall ensure that he completes the reimbursement to the Board within six (6) months of the effective date of this Consent Agreement.

12. Violation by Dr. Harding of any of the terms or conditions of this Consent Agreement shall constitute grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of re-licensure.

13. Dr. Harding waives his right to a hearing before the Board or any court regarding all findings, terms, and conditions of this Consent Agreement. This Consent Agreement is not appealable and is effective until modified or terminated in writing by agreement of all of the parties hereto.

14. The Board and the Department of the Attorney General may communicate and cooperate regarding Dr. Harding or any other matter relating to this Consent Agreement.

15. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

16. This Consent Agreement constitutes discipline and is an adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB) and the Federation of State Medical Boards (FSMB).

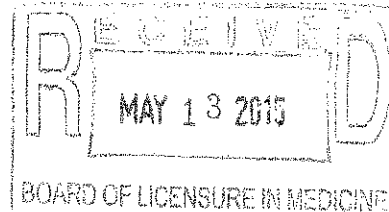
17. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

18. The Board and Dr. Harding agree that no further agency or legal action will be initiated against him by the Board based upon the facts admitted to or found herein except or unless he fails to comply with the terms and conditions of this Consent Agreement. The Board may however consider the conduct described above as evidence of a pattern of misconduct in the event that similar allegations are brought against Dr. Harding in the future. The Board may also consider the fact that discipline was imposed by this Consent Agreement in determining appropriate discipline in any further complaints against Dr. Harding's Maine physician license.

19. Dr. Harding acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will, and that he agrees to abide by all terms and conditions set forth herein.

20. The effective date of this Consent Agreement shall be the date on which the final

signature is affixed to this Consent Agreement.



I, LESLIE C. HARDING, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN, OR OTHERWISE.

DATED: 9 May 2015

Leslie Harding MD
LESLIE C. HARDING, M.D.

STATE OF MAINE

Franklin, S.S. (County)

Personally appeared before me the above-named, Leslie C. Harding, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED: 5/9/2015

Gail E. Dolan
NOTARY PUBLIC/ATTORNEY
MY COMMISSION ENDS: 4/7/2018

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 7/2/15

Maroulla S. Gleaton
MAROULLA S. GLEATON, M.D., Chairman

OFFICE OF THE ATTORNEY GENERAL

DATED: July 7, 2015

Michael Miller
MICHAEL MILLER
Assistant Attorney General

Effective Date: July 7, 2015

APPENDIX B

STATE OF MAINE BOARD OF LICENSURE IN MEDICINE

In re:) CONSENT AGREEMENT
Lowell I. Gerber, M.D.) FOR DISCIPLINE
Complaint No. CR15-12)

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against the license to practice medicine in the State of Maine held by Lowell I. Gerber, M.D. The parties to the Consent Agreement are: Lowell I. Gerber, M.D. ("Dr. Gerber"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. Dr. Gerber has held a license to practice medicine in the State of Maine since August 12, 2007 (license number MD17412), and specializes in Internal Medicine and Cardiovascular Disease.

2. On or about February 3, 2015, the Board received a complaint from Patient A who alleged that in late January 2014, she contacted Dr. Gerber to discuss treatment regarding Patient A's daughter who has type 1 diabetes. Patient A alleged that following a few subsequent contacts, she entered into a patient relationship with Dr. Gerber and that Dr. Gerber offered a discounted fee to her for health care treatment to be provided to her, her daughter, and her son in exchange for Patient A's assistance with the organization and publication of a book or how-to manual. Patient A alleged that Dr. Gerber saw patients, including her, in an office located in his home and that he had no

employees during the period that she was his patient. Patient A further alleged that her interactions with Dr. Gerber culminated in a sexual relationship, including three instances of sexual relations during September 2014 that occurred at his home. The Board docketed that complaint as CR15-12, and sent it to Dr. Gerber for a response.

3. On or about April 14, 2015, the Board received a written response from Dr. Gerber to the complaint. In his response, Dr. Gerber admitted that he dealt with Patient A "as a patient, as the mother of a diabetic daughter, and as a business associate who he collaborated with for the writing and marketing of a 'how to do it' manual for the ketoGAPS diet." Dr. Gerber admitted that he had a brief sexual relationship with Patient A, and that it ended shortly after it started. In his response, Dr. Gerber acknowledged that the sexual relationship with Patient A was wrong and stated that he immediately wanted to self-report his conduct to the Board but was advised not to do so by a prior attorney, two counselors, and another physician. He denied many other allegations in the complaint, including other allegations of sexual impropriety.

4. On June 9, 2015, the Board reviewed all the information received regarding complaint CR15-12, and voted to issue an Order of Immediate Partial License Suspension for a period of thirty (30) days due preliminarily finding immediate jeopardy to the health and safety of the public who might receive his services that limited Dr. Gerber's ability to practice medicine by providing that: 1) he may not practice medicine on female patients without the presence of a female chaperone; and 2) he may not practice medicine out of his home. The

Board also set the matter for an adjudicatory hearing to be held on July 7, 2015.

5. This Consent Agreement has been negotiated by legal counsel for Dr. Gerber and legal counsel for the Board in order to resolve complaint CR15-12 without an adjudicatory hearing. Absent Dr. Gerber's acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before July 1, 2015, the matter will be scheduled for an adjudicatory hearing. In addition, absent the Board's acceptance of this Consent Agreement by ratifying it on July 7, 2015, the matter will be scheduled for an adjudicatory hearing.

6. By signing this Consent Agreement, Dr. Gerber consents to the presentation of this proposed Consent Agreement for ratification to the Board. Dr. Gerber waives any arguments of bias or prejudice against any of the Board members in the event that the Board fails to ratify this proposed Consent Agreement.

COVENANTS

7. Dr. Gerber admits the facts stated above and that such conduct constitutes grounds for discipline pursuant to 32 M.R.S. §§ 3282-A(2)(E)(1), (F), (H), and Board Rules Chapter 10, §1(3), for engaging in sexual misconduct.

8. As discipline for the conduct described above, Dr. Gerber agrees to accept the following discipline:

a. A REPRIMAND. Dr. Gerber is hereby reprimanded by the Board for engaging in sexual misconduct with Patient A.

b. A LICENSE SUSPENSION of thirty (30) days commencing upon the execution of this Consent Agreement.

c. A CIVIL PENALTY in the amount of One Thousand Five Hundred Dollars (\$1,500.00), payment of which shall be made by certified check or money order made payable to "Treasurer, State of Maine," and remitted to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137, within six (6) months of the execution of this Consent Agreement.

d. A LICENSE PROBATION for five (5) years following the execution of this Consent Agreement. The following specific conditions of probation are imposed:

(1) Requirement of a Chaperone: Dr. Gerber shall not treat or examine any female patient unless there is an adult chaperone present at all times during the treatment or examination. The chaperone may be a medical assistant, but may not be a member of Dr. Gerber's family or household. Dr. Gerber shall cause the chaperone to sign the corresponding patient record at the time of the treatment or examination attesting to their attendance during the patient examination or interaction. Upon request by the Board, Dr. Gerber shall immediately identify the chaperone utilized with regard to any patient and provide the chaperone's contact information. Dr. Gerber shall provide a copy of this Consent Agreement, together with any amendments

hereto, to any chaperone utilized in his medical practice and maintain a written record available for inspection signed by the chaperone that he/she has received and read the Consent Agreement.

(2) Notification of Practice Location: Dr. Gerber shall notify the Board in writing of any and all locations where he practices medicine. In complying with this condition, Dr. Gerber shall notify the Board in writing of any change(s) in the location(s) of his practice of medicine within seven (7) calendar days of any such change(s).

(3) Board Access: Dr. Gerber shall permit the Board or its agent(s) complete access to his medical practice, including but not limited to all patient records, and he shall permit the Board or its agent(s) to conduct random and/or announced inspections.

(4) Psychological Evaluation: Dr. Gerber shall obtain a comprehensive psychological evaluation from a licensed health care practitioner acceptable to the Board for the purpose of assessing and identifying any contributing illness or underlying conditions that may have predisposed Dr. Gerber to engage in sexual misconduct and that might put patients at risk. The evaluation required by this subparagraph shall be completed within thirty (30) days of the execution of this Consent Agreement. Dr. Gerber shall provide the Board with a copy of the evaluation and agrees to comply with any and all treatment or monitoring that is recommended as a result of the evaluation. In the event that the evaluation identifies recommended treatment or monitoring, Dr. Gerber shall have thirty (30) days

from the date the evaluation is received to provide the Board with a written plan for his compliance with those recommendations. The Board, in its sole discretion, may accept, modify, or reject Dr. Gerber's plan for compliance, and impose an alternative plan for compliance during term of the license probation imposed in this Consent Agreement.

(5) Medical Ethics and Boundaries Course: Dr. Gerber shall attend, and successfully complete a Board-approved substantive course in medical ethics and boundaries within six (6) months following the execution of this Consent Agreement. The ethics and boundaries course must cover the topic of appropriate patient-physician boundaries. Dr. Gerber shall provide the Board with documentation of the successful completion of this course in medical ethics and boundaries within six (6) months following the execution of this Consent Agreement.

(6) Requirement for Practice Monitor: Within thirty (30) days following the execution of this Consent Agreement, Dr. Gerber must have a Board-approved physician practice monitor who shall monitor his medical practice. In complying with this requirement, Dr. Gerber shall submit to the Board for its approval the name of a proposed practice monitor, whom the Board has the sole discretion to approve or deny. The monitoring physician must be in direct contact with Dr. Gerber and observe him within his medical practice at least once a week for an initial period to be determined at the sole discretion of the Board, and inform the Board if Dr. Gerber demonstrates any issues with regard to isolation, inappropriate boundaries or decision-making,

incompetence, unprofessionalism, or in the event that the monitoring physician has any other concerns related to Dr. Gerber's medical practice. The monitoring physician shall report any issues to the Board by telephone and in writing within 24 hours or as soon thereafter as possible. Dr. Gerber understands that the monitoring physician will be an agent of the Board pursuant to 24 M.R.S. § 2511. Dr. Gerber shall permit the monitoring physician full access to his medical practice, including but not limited to all patient information. The Board-approved monitor shall provide the Board with reports regarding Dr. Gerber's medical practice on or before November 7th, February 7th, May 7th, and August 7th of each year following the execution of this Consent Agreement, which reports shall include a statement identifying his personal observations and review of patient records, if any. Dr. Gerber shall promptly provide a copy of this Consent Agreement, together with any amendments hereto, to his monitoring physician.

(7) Within thirty (30) days of the execution of this Consent Agreement, Dr. Gerber shall reimburse the Board Six Hundred Twenty Two Dollars and Thirty Cents (\$622.30) as the actual costs incurred by the Board for the investigation of this matter. Payment shall be made by certified check or money order made payable to "Maine Board of Licensure in Medicine" and be remitted to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

9. Violation by Dr. Gerber of any of the terms or conditions of this Consent Agreement shall constitute grounds for discipline, including but not

limited to modification, suspension, or revocation of licensure or the denial of re-licensure.

10. This Consent Agreement is not appealable and is effective until modified or rescinded in writing by the parties hereto.

11. The Board and the Department of the Attorney General may communicate and cooperate regarding Dr. Gerber or any other matter relating to this Consent Agreement.

12. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

13. This Consent Agreement constitutes discipline and is an adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB), the Healthcare Integrity and Protection Data Bank (HIPDB), and the Federation of State Medical Boards (FSMB).

14. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto. If any clause of this Consent Agreement is deemed illegal or invalid, then that clause shall be deemed severed from this Consent Agreement.

15. Dr. Gerber acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

16. Dr. Gerber has been represented by James F. Martemucci, Esq., who has participated in the negotiation of the terms of this Consent Agreement.

17. For the purposes of this Consent Agreement, the term "execution" means the date on which the final signature is affixed to this Consent Agreement.

I, LOWELL I. GERBER, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED:

7-2-15

Lowell I. Gerber

LOWELL I. GERBER, M.D.

STATE OF

MAINE

CUMBERLAND

, S.S.

Personally appeared before me the above-named Lowell I. Gerber, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED:

7-2-15

James F. Martemucci

NOTARY PUBLIC/ATTORNEY STATE OF MAINE

MY COMMISSION ENDS: _____

DATED:

7-2-15

James F. Martemucci

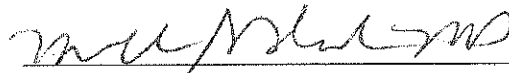
JAMES F. MARTEMUCCI, ESQ.

Attorney for Lowell I. Gerber, M.D.

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED:

7/7/15

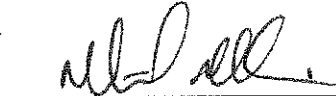


MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED:

July 7, 2015



MICHAEL MILLER
Assistant Attorney General

Effective Date:

July 7, 2015